IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 595 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAVYUG PROCESSORS PRIVATE LIMITED

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 595 of 2003

MR RD DAVE for Petitioner No. 1

MR DN PATEL for the Respondents

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.L.DAVE

Date of decision: 07/03/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

1. Rule. Mr. D.N. Patel waives service of Rule on behalf of the respondents. At the request of both the

sides, the matter is taken up for final disposal.

2. The short point involved is whether the Tribunal committed an error in confirming the order of the Commissioner (Appeals), made on 17.8.2001, rejecting the application for condonation of delay which was made by the petitioner on the ground that the appeal could not be filed earlier because of the delay caused due to earthquake.

3. The Commissioner found that the appeal was delayed by two and a half months and, in the application for condonation of delay, it was stated that the order-in-original was received by the appellant on 27th January, 2001, the next day after the severe earthquake. Hence, the order was misplaced. When the appellant had, in terms, stated that due to fear and fright following the earthquake he had misplaced the order, there was no reason to doubt that ground and it should have been taken to be a sufficient explanation for the delay in filing of the appeal, having regard to the devastating effect of the earthquake which affected the psyche of the people besides destroying their properties. The Tribunal, therefore, committed an error in exercise of its jurisdiction in confirming such an order of the Commissioner (Appeals). The impugned order is, therefore, set aside with a direction that the Commissioner will consider the appeal on merits, in accordance with law. Rule is made absolute with cost of Rs.10,000/- to be paid to the respondents. The amount of Rs.10,000/-, which was deposited in the Registry by the petitioner, will be paid to the respondents.

[R.K. ABICHANDANI, J.]

[A. L. DAVE, J.]

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